

1883-013
Lee Co.

Chancery Causes: John E. Debusk vs. Alfred Leedy

CA - Contract Dispute
T - Property

To the Hon, John A. Kelly Judge of the Circuit Court
of Lee County Virginia:

Humbly complaining your Orator John E. Dehusk
a citizen of said county would respectfully show unto your
Honor that one Alfred Seedy likewise a citizen of said
county, bargained and sold to your Orator a certain tract
or parcel of land lying and being in said county of
Lee and is situated in what is known as the Craberland
in said county. and which is more particularly described
in said Seedy's bond for a title to your Orator herewith filed
as a part of this bill marked (A) By reference to this
exhibit your Honor will see that on the 10th day of March 1880
said Seedy executed to your Orator his bond in the sum
of Six hundred and fifty dollars which was to become
and and if he should make or cause to be made to your
Orator a good and sufficient title to the land therein describ-
ed and if otherwise to remain in full force and virtue.

Your Orator states that by the terms of his purchase he was
to pay said Seedy the sum of Three hundred and twenty
five dollars for the tract of land so purchased by him, and
he here alleges that the whole of the purchase money except
\$17.00. has been fully paid to said Seedy, and for this last named
sum said Seedy accepted a note on me Andrew Dehusk in
full satisfaction thereof, so that your Orator alleges that
the whole of the purchase ^{money} for said land has been paid.

Your Orator states that by said bond no time is therein
stipulated when a title shall be made by said Seedy, But
your Orator is advised that the law of the land will

suppose that mission by presuming that it was the
intention of the parties that said Leedy should convey when
the purchase money should be fully paid which as before
stated has been done. Your Orator further states that said
Leedy is wholly insolvent, and that an action at law on
said bond for damages would be entirely inadequate and wholly
unavailing. And he further alleges that having fully paid
the purchase money he has fully complied with his part
of the contract, and that he is now entitled to have a Specific
execution of the contract on the part of said Leedy, who has
all the while steadily and persistently refused to comply therewith.
And to compell him to specifically execute said contract
is the object of this bill. Your Orator therefore prays your
Honor to take cognizance of his cause and to make said
Leedy a defendant to this bill of complaint and to require
him to answer the same fully on Oath. That on the
issue of the cause the said Leedy be decreed to specifically execute
said contract by conveying to your Orator the land described
in said bond and upon his failure so to do, that he be attached
and compelled so to do. or that a commissioner be appointed
to convey for him whichever your Honor may deem most advisable.
And if your Orator is in anywise mistaken in this his
special prayer then he prays for all such general relief
as it is competent for a Court of equity to grant in the premises.
May the Honorable writs of Spa issue directed &c.

Ayers & Morgan for Peff

Hyatt L 6.74
 " Cour 7.50
 3 .50
 A 15.00
 Estimated \$29.74
 6.50

\$36.24

\$29.74
 L 1.39
 Atty 2.50
 \$33.63 Actual
 costs.

8.13

John C.

vs. Bill

Alfred. See d.

1882, Octo. Bill filed
 Spa not Ex. D. alias spa
 awarded & cont'd
 " Nov Spa Exd. & D. N.
 " Decr. D. N. confid. & cause
 set for hearing by Duff
 " Jan. 1883
 " Mr. Linn Decree cont'd.
 " Aug. Decree final

To the Honorable John A. Kelly Judge
of the Circuit Court of Lee County Va
The Defendant Alfred Leedy to a bill
filed in this Honorable against him by
John E. Debusk.

Respondent denies that the purchase money
due him as admitted by the plff in
his bill has ever been paid to him.

He was paid one note the first one
for one hundred dollars, and he held
one other note for \$75; due two years
after date to be discharged in property
at a fair valuation or otherwise - was
dated March 1880, - this note is still due
him and unpaid - But was burned up in
the respondents house which was burned
some several months ago. He denies therefore
that he has been paid or paid seventy five
dollars or any part thereof - But when paid
he is willing to make said deed, he stands
ready to do at any time - But he is
adverse that he is not bound to do so
until it is paid - Respondent therefore
calls on the plff to show how and
when said purchase money was
paid - For which he asks an account
before some Court of this Court - and
having now fully answered he prays hence
to be dismissed - A. L. Pendergast

Alfred Seedy

Ans } Answer.

L. E. Debusch

Filed Nov. 9. 1882

J. A. Hyatt
Clerk

Virginia Lee County to wit -
This day Alfred Seedy personally ap-
peared before me and made oath that
the foregoing answer is true. Given under
my hand and seal this Dec. 4th 1882
J. A. Hyatt Clerk

John E. Dibush

Plff

vs.

Alfred Leedy

Def

In Chancery

This cause came on again further to be heard on the papers formerly read in the cause, and the report of Special Comr. H. J. Morgan filed in the cause on the 25 day of July 1883. and was argued by counsel, and it appearing from said report that said Morgan as Special Comr. had made and acknowledged for record, a deed by which he has conveyed to the Plff as the part of the deft. the tract of land in the bill and exhibit A. mentioned pursuant to a former decree in the cause. and said deed, being seen and inspected by the court. and said report being unaccepted to. On consideration of all which, It is adjudged ordered and decreed, that said report and deed be and the same are hereby confirmed, and the clerk of this, will deliver to the clerk of the county court said deed that the same may be recorded. and it is further adjudged that said Comr. is entitled to \$2.50 for making said deed which is to be taxed as a part of the costs of this suit, and no further action being necessary this cause is ordered to be stricken from the docket.

John E. DeBuck

no. 3 Decm N.3 - Final

Alfred Seedy

Entered page

327. J. H. Hyatt
Clark

Entered this decm

J. A. K.

Sept 1/83

John E. Debusk Pff.
vs.
Alfred Leedy Dft.

This cause came on this day to be heard on
the bill of the pff. and whilst thereon, ~~the~~
~~the answer of the dft. the report of J. A. B. Hyatt & Co. & depositions through~~
~~submitted by the dft. and was argued by counsel~~

On consideration of ^{all which} ~~the matter of said bill~~, it appears
to the court, that the Pff. is entitled to a specific execu-
tion of the contract on the part of the said Defendant.
It is therefore adjudged Ordered and decreed, that the
said defendant do within 30 days from the rising
of the court, make and acknowledge for record a
deed conveying to the plaintiff the land described
in Exhibit (A) with plaintiffs bill and with covenants
as therein stipulated for, and according to the boundaries
as therein set out. and it is further adjudged and
decreed that the plaintiff recover of the defendant
the costs of this suit, and in the event that said
Dft. should fail to execute such deed within the said
30 days, then Henry J. Morgan is appointed a Special
Commissioner to make such conveyance on the part
of the said defendant, with covenants of special warranty
and should he exercise the authority hereby conferred
he will report his action to the court & the cause is
continued.

John E. D. Buck

as } Decm 1882

Alfred Seedy

Entered page 320.

J. A. Hyatt
Clerk

Entered this
April 6 1883

J. A. Hyatt

John E. Debush Peff }
 vs. } Imbush
 Alfred Leach Deft }

On the motion of the Deft. leave is granted him to file his answer to the Peff bill, and the same was accordingly filed and the plaintiff entered a general replication thereto. And therefore the cause came on to be heard on the bill of the Peff and the answer of the Deft. and general replication thereto and was argued by counsel, and by consent of parties it is adjudged ordered and decreed that John A. G. Hyatt be appointed a Special Commissioner for the purpose, who after giving notice to the parties will proceed to enquire and report whether or not the plaintiff has paid the defendant ^{the purchase money} for the tract of land in the bill mentioned, and if so when and how the same was paid. He will also report any matter deemed pertinent by himself, or which may be required by either party, and the cause is continued.

John E. Dehusk

as { Deere No 1

Alfred Seedy

Entered, Page 296.

J. A. Hyatt
Clerk

Enter
2. 24. 16
Dec 5/82

Court's Office
Jonesville Va

February 17 1883

John E. Debush Plff

vs

(In Chcy

Alfred Leady Def)

The deposition of A. K.
Debush & others taken in the
above styled Cause on the 17th
day of February 1883, at the time
of taking an account in said
Cause. A. K. Debush a wit-
ness of lawful age being duly
sworn deposes and says -

I am the son of the Plff and
brother in law of the defendant, and
am well acquainted with the entire
trade and ^{business} transaction, in dispute
between the parties, I know the
fact that the defendant purchased
the land in question from one
Zachariah Cambell, who had purchased
the same from one Archibald Witt

in whom rested the legal title, subsequently the said Campbell caused the said Witt to make a deed or title direct to the defendant, who up to this time had paid \$160.4 still owed the sum \$165- as purchase money on said land, at interest, and afterwards said Defendant paid \$15.⁰⁰ more towards said land, making in all that said Deft, had paid towards said land, up to this time, \$175.⁰⁰; And at this time he the said Defendant, sold said land to said Plaintiff, upon these conditions, the Plaintiff was to assume, and did assume to pay the ballance of purchase money due on said land, and executed his notes to the deft, at the same time for \$175- the amount he had paid towards said land, (one

note for \$100, & One for \$75-) to be discharged in property at trade prices; and when these notes was paid the defendant was to execute to the Plaintiff a deed to said land.

The \$100. note was discharged and paid in a young gray mare; the \$75^{note} was paid as follows: - The defendant had become indebted to one Maggie E. Fitz in the sum of \$52.50, for cash received of her & other performances, for which amount (of \$52.50) she the said Maggie E. Fitz held a lien on the before mentioned land, which by ^{an} agreement between the plaintiff and defendant in my presence, the Plaintiff was to assume and pay the said sum of \$52.50 to the said Maggie E. Fitz

and said amount when so paid was to constitute a credit of the amount on the \$75. note, and on this condition a certain suit was dismissed which had been instituted against said defendant by said Fitz, at the same time and place the said defendant agreed to pay the sum of \$5. towards the cost on said suit, which as part of agreement he then gave credit for and as a balance in full discharge of the said \$75. note I executed my note to the said defendant for the sum of \$17.50 which he the said defendant accepted in full discharge of the \$75. note.

I know the fact that the Plaintiff has satisfied the \$52.50 claim which was held against said land by the said Maggie E. Fitz, and that the said

Maggie E. Fitz has released any claim
for said amount as against the defen-
dant.

And further this witness sayeth not.

A. K. Debush

John E. Debush an other witness of
lawful age being duly sworn
deposes and says - I have heard
the deposition of A. K. Debush read
in this cause; and it truthfully
and correctly narrates and states
the facts in the case.

And further this deponent sayeth not

John E. Debush

Virginia Lee County to wit

The foregoing depositions of A. K.
and John E. Debush, was taken before
me, sworn to and subscribed by them at the
time and place mentioned in the caption in
the presence of Deft.

J. A. Hyatt Comr.
Feby 17 1883.

John C. Debusk
vs ^{Exm} Dep't.
Alfred Leedy

"A"

Commissioners Office Mr. 5th 1883.

The deposition of Alfred Leedy taken on the 5th day of March 1883. at the time of taking an account in a Chancery Cause now pending in the Lee Circuit Court in which John E. Debusk is Plaintiff and the said Alfred Leedy is defendant.

The said Alfred Leedy being first duly sworn deposes and says.

I purchased of Zachariah Campbell a certain tract of land being 200 acres more or less, for the sum of \$325. The Plff John E. Debusk paid \$150. into the price of said land to said Campbell or to his assigns, I said Leedy paid \$160, to said Campbell afterwards \$15.⁰⁰ to one Mr. Balton to whom said Campbell had assigned a deed of trust, which he said Campbell held against said land, thus sold by said Campbell, to me. whereupon the said Balton surrendered

and delivered the aforesaid deed of trust to me, at the payment of the said \$15. it being the amount in full of all claims in said deed of trust - I was the sole purchaser of said land and had no partners whatever, I offered to divide the said tract of land with the said John E. Debush, so as to give all parties their just claim in & to said land, ~~whether~~ whether written or verbal which offer John E. Debush refused.

Then in order to wind up the whole matter, I sold to the said John E. Debush my entire claim right and title to the said tract of land, for which I gave the said Debush my title bond and took his notes for \$175.⁰⁰

The said one hundred and seventy five ^{dollars} ^{due} is what was ^{due} me from the said Debush after all debts, due

Claims against me, bearing on the land, whatever, were settled considered and Taken out.

Said settlement was made in the Graborchard.

Said Debust has paid since this settlement one hundred dollars; the balance \$75.- has never been paid and is yet due me. Said Debust was to pay all claims against said land including the amount claimed by Maggie E. Debust (now Fitts) in addition to the \$175.- which he bound himself to pay me and there remains yet due me \$75. of said amount.

Cross Examined

2. By Plaintiffs Counsel

Did not you agree, when a certain suit at law was commenced against you by Maggie E. Fitts

that you would allow \$52.50 the
amount going to her and \$5.00
towards Cast to be credited on
the \$75.- Claimed by you from Diff.
Aris Mr. Debusk at that time asked me
the question, "If you think that Mag
ought not to have her pay we will
have to let it be tried," I answered
him that through an injustice
against my will, by me paying
the debt twice, I would have it
to do, but that I would suffer
the loss of it, as that debt had
been paid when the Plaintiff
got the land in the Crab Orchard
as he then contended, whenever he got
the title bond he was then paid.
And further this witness saith not.
Alfred Leary

The foregoing Depo, was taken sworn to & subscribed
before me, March 5-1883. J. A. Hyatt Clerk

Alfred Leedy
and ³ Leo-
John E. Debush

"B."

Commissioner's Office

Jonesville Va. March 6th 1883.

John E. Debush

Plaintiff

vs

Alfred Leedy

Defendant

In Chancery

To the Hon. John A. Kelly Judge of the
Circuit Court of Lee County.

By a Decree, entered in the above styled cause
on the 5th December 1882, the undersigned was
appointed a special Commissioner, and directed
to perform certain duties therein enumerated.

In obedience to said Decree, I in due
time gave the parties verbal notice that
I would proceed to execute said Decree on
the 27th day of February 1883, at my Office in Jones-
ville Va. On that day said parties
appeared before me; and the deposition
for the Plaintiff herewith filed marked "A,"
was taken. — The Defendant requested
me to give him further time to look up
some proof, which I did. Said Deft.
appeared before me on the 5th day of March
1883, and presented to me a memorandum of
his business transaction with the Plaintiff
referring to the matter in controversy, which
I embodied into a deposition, herewith filed
marked "B."

As appears from the deposition of A. K. Debush
concurrent in, by a sworn statement of the
Plaintiff marked "A," the entire purchase

money of the land in the Bills mentioned has been fully paid by the Plaintiff. The defendant admits the payment of \$100. in a gray mare, which left only \$75 yet due, which appears to have been paid in the following manner.

(One Maggie E. Debusto (now Frito) claimed & swore to have a verbal contract with the Deft, that she was to help him pay into his land purchase, and she was to have an interest in his land to the extent of her advancements to said Deft, and that with this understanding she had paid and assisted said Deft, to the extent of \$52.50, and after said land trade between the Plff & Deft, the said Maggie sought the collection of her claims against the Deft, and thereupon brought a suit in your Honor's Court for the same - which suit was afterwards dismissed by the said Maggie or her representative upon the condition, as appears by said Depo. Marked "A", that the Defendant would pay \$5.00 towards the accrued costs and allow, this sum \$5.00 and the \$52.50 he owed the said Maggie, making a total of \$57.50, to go as a credit on the \$75.

of purchase money yet due him from the Plff, which agreement the Defendant appears from said Depo, & his own statements, to ^{have} entered into, and as a further and full payment of the \$75. Balance of purchase money, the said Deft appears to have received a note on one A. K. Debush for \$75.00, which in the opinion of your Commissioner relieved the Plaintiff from further liability on account of said purchase money.

The Defendant requested me to report that the agreement entered into by him was contrary to his will, and that when the Plaintiff undertook to pay him \$175. the amount he had paid towards said land, and take the land, that the said Plaintiff then and there assumed to pay all liens on said land including this amount due the said Maggie. & that he the said Deft. in justice to the said Maggie had made the before stated agreement, & he now claims that the Plff should pay him the \$75.00.

All of which is respectfully submitted.

J. A. Stoughton.

John E. Debush
vs
Cour's Report
Alfred Leedy

Filed March 6 1883
J. A. Hyatt
Clerk

Commissioners fee \$7.50

John E. Debusk

Pelf

vs.

Alfred Seely.

Deft

In Chancery

To the Hon. John A. Kelly Judge of the Circuit Court
of Lee County Virginia:

By a decree entered in this cause on the 6th day of
April 1883, the deft was directed to convey within
30 days to the Pelf, the tract of land in the bill and
proceedings mentioned, and upon his failure so to do
the undersigned was appointed a commr. and directed
to make said conveyance. The undersigned commr.
reports that said deft did not execute said deed, as directed
by said decree, and he further reports that as directed
by the said decree he has made & acknowledged for
record, a deed conveying to the Pelf, the land in the
bill and proceedings mentioned with covenants of Special
warranty, which deed is herewith filed for your
approval or rejection Marked (B.)

All which is respectfully Submitted.

Henry J. Morgan Special Comr.

John E. Debusch

vs. $\frac{2}{3}$ Bond. Plaintiffs

Alfred Seedy.

1883, July 25. ~ Filed

J. A. Wyatt
CLK

I know all men by these presents that I Alfred Leedy
of the county of Lee & state of Virginia are well
and firmly bound unto J. E. Debusk in the full and
full sum of ~~six~~ hundred and fifty dollars to which
pay ment I bind my self and ~~re~~ firmly by these presents
that condition of the above obligation is such that where as
the said Leedy hath this day sold to the J E Debusk a
certain parcel or tract of Land lying and being in the county
of Lee & state of Virginia and bounded as follows To wit
Beginning on two white oaks on the west fork of Bundy's
creek neare the fork of said creek, Thence Easterly to
a maple & white oak in the bank of the East fork of Bundy
creek acornner to Alfred Witt's land thence northward
upwardly said brance as it meanders with Alfred Witt's
line to the Taylor line thence northwesterly with said
line to William Witt's corner on said line, Thence leaving
said Taylor line westwardly with William Witt's line to
the west fork of Bundy's creek thence down said creek to
the begining. Now if the said Leedy shal make or cause
to be maid a good and sufficient title to said Land
then this obligation to be well and void otherwise to
remain in full force & viture. Witness my hand
and seal this 10 March the 10. 1880

test

Thomas A. Legg

Alfred Leedy Seal

John E. Dehusk

D

From } Title Bond

Alfred Leedy

(A)

The Commonwealth of Virginia,

To the Sheriff of Lee County - - - Greeting:

We Command you to Summon

Alfred Leedy

To appear at the Clerk's office of the Circuit Court of Lee, at the Court-House, on the first Monday in

October

next, being rule day to answer a bill in Chancery, exhibited in our said Court against

him

by

John E. Debush

And have then there this writ. Witness JOHN A. G. HYATT Clerk of our said court at the Court-House

this *25th* day of *September* 188*2*; in the *10⁷* year of the Commonwealth.

A Copy Sent -

J. A. Hyatt
Clerk

J. A. Hyatt CLERK,

For
Alfred Leedy

The Commonwealth of Virginia,

To the Sheriff of Lee County - - - Greeting :

We Command you to Summon

Alfred Leedy

To appear at the Clerk's office of the Circuit Court of Lee, at the Court-House, on the first Monday in

October next, being rule day to answer a bill in Chancery, exhibited in our said Court against

him

by

John E. Debusk

And have then there this writ. Witness JOHN A. G. HYATT Clerk of our said court at the court-house

this *25th* day of *September* 1882; in the *10th* year of the Commonwealth.

J. A. G. Hyatt CLERK.

(A M)

John E. Delush
vs $\frac{3}{3}$ Spar in the
Alfred Leedy

To October Rules 1882

Not Executed
for want of time
T. J. Ely D.S.
for T. S. Ely S.D.

Chd 15-5

The Commonwealth of Virginia:

To the Sheriff of Lee County, Greeting:
We Command You to Summon

Thomas N. Legg
and *James R. Polk Legg*

meas Court

To appear before the Judge of our County Court of Lee County, at the Courthouse on the

February

Term next to testify and the truth to speak in behalf of

in certain matters of controversy pending in our said Court between

17th day of the

Alfred Leedy

John E. Debusk

PLAINTIFF, and

Said

Alfred Leedy

DEFENDANT. And this

Dollars. And have then there this writ. Witness, JOHN R. GIBSON, Clerk of our said Court, at the Courthouse, the

27th day of

January

188*7*, in the 10th year of the Commonwealth.

CLERK.

J. A. Hyatt Court

Alfred Leedy
a do³ Spaforwit

John E. Sebusk

To February 17/1883.

Not Accepted
Finance, Mich. Ind.

The Commonwealth of Virginia,

To the Sheriff of Lee County - - - Greeting :

We Command you to Summon

(as at an other time we have
Commanded you) Alfred Leedy

To appear at the Clerk's office of the Circuit Court of Lee, at the Court-House, on the first Monday in

November next, being rule day to answer a bill in Chancery, exhibited in our said Court against
him by John E. Debusk

And have then there this writ. Witness JOHN A. G. HYATT Clerk of our said court at the Court-House
this 4th day of October 1882; in the 10th year of the Commonwealth.

J. A. G. Hyatt CLERK.

(A 776)

John E. Debusk
alias
Spencer
Alfred Leedy

To November Rules 1882.

Executed by delivering
a copy of this within to

Alfred Leedy

Oct. 19th 1882

Thos. S. Ely S. L.

Chad 55